



U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention:
Directors, Offices of Public Housing;
Administrators, Offices of Native
American Programs; Section 8 Public
Housing Agencies and Indian Housing
Authorities, Secretary's Representatives;
State and Area Coordinators

Notice PIH 97-15 (HA)

Issued: April 10, 1997
Expires: April 30, 1998

Cross References:

Subject: Financial Management Program Requirements for the Moderate Rehabilitation Program

1. **PURPOSE** - This Notice provides guidance and instructions to PIH State/Area Offices (including Offices of Public Housing and Offices of Native American Programs) of programmatic requirements and addresses concerns related to the administration of the Section 8 Moderate Rehabilitation (Mod Rehab) Program. This Notice supersedes Notice 95-71, Procedures for Replacing Expiring Section 8 Moderate Rehabilitation Housing Assistance Payments (HAP) Contracts dated December 4, 1995. This Notice also provides financial procedures for implementing Notice 96-95, Fiscal Year 1997 Renewal of Expiring Section 8 Moderate Rehabilitation Housing Assistance Payments Contracts, dated December 24, 1996.
2. **BACKGROUND** - The distinctive features of the Mod Rehab program have proven to be complex during conversion from PAS/LOCCS to the HUD Central Accounting and Program System (HUDCAPS). The provisions of the FY 97 Appropriations Act have added further elements to program requirements. The FY 97 Appropriations Act allows for HAP contracts expiring during fiscal year 1997 to either be replaced with Rental Certificates (or Rental Vouchers if approved by HUD), or allows for a renewal of HAP contracts under the Mod Rehab Program. The renewal is for a term of not more than 12 months and is based upon the number of units within a rental property (5 or more), the preference of the owner, and the HA assessment of owner compliance with the HAP contract.

The changes referenced above have generated numerous questions from HUD staff and Housing Authorities (HA). This Notice provides guidance and procedures for the following programmatic concerns:

- A. The difference between the funding term and contract term in HUDCAPS and how this difference should be reflected on the Annual Contribution Contract (ACC) exhibits.
- B. The method for treating Mod Rehab cost amendments in HUDCAPS.
- C. The use of any remaining funds after the funding term has expired.
- D. Disposition of unused funds at the expiration of the last HAP contract.
- E. HA procedures if replacement tenant based assistance funds are not provided timely.
- F. The impact of the FY 97 Appropriations Act on program requirements.

3. **MOD REHAB PROGRAM TERMS**

ACC FUNDING TERM - The Mod Rehab program was designed to provide 15 years (180 months) of rental assistance payments to owners. HUD is required to provide 15 years of funding for each unit covered by a duly executed HAP contract effective with the date that the HAP contract is executed between the HA and owner.

Contract authority begins on the first day of the month when the **ACC** is executed. Prorated contract authority, if applicable, is provided in the first year, full contract authority is available in years 2 through 15, with the remaining prorated funds available in year 16. Any contract authority not requested and disbursed through HA financial documents is transferred into an ACC program reserve account at the end of each HA fiscal year.

When an executed HAP contract goes beyond the expiration of the 15 year term for which contract authority is available, the additional funding requirements are to be disbursed from the ACC program reserve account, if available, and cost amendments, as needed.

Each unit covered by a HAP contract has an individual 15 year funding term and must be monitored by HUD staff for expiration date and timely replacement or renewal.

HAP contracts which are renewed as a result of the 1997 legislation will have an additional 12 month funding and contract term.

ACC CONTRACT TERM - The **initial** contract term of the Mod Rehab ACC was for a period of 17 years (204 months). The additional time (2 years) was provided so that a HA could

conduct outreach and recruitment of property owners interested in program participation and to allow time for the owner to obtain financing and complete the required rehabilitation work.

The initial ACC 17 year contract term was effective with the date that the ACC was executed between HUD and the HA.

Initially, it was thought that the HAP contracts would be executed during the first 2 years of the contract period. If this had happened the initial 17 year contract term would coincide with individual 15 year funding terms for HAP contracts. However, in some cases HAP contracts were not executed by the HA until several years after ACC execution.

In this situation the ACC expiration date must be amended to correspond with the expiration date of the last HAP contract executed by the HA. This includes the expiration date for any HAP contracts renewed on the basis of the 1997 legislation. The result is contract terms on the ACC and in HUDCAPS in excess of 17 years.

HUDCAPS - If the correct ACC funding term (180 months) is identified in HUDCAPS for the initial Mod Rehab project, the funding exhibit will accurately reflect a dollar value of 0 in contract authority available after the 15th year of the initial funding.

Data converted from the Control Files Subsystem (CFS) to HUDCAPS often identified both the ACC funding and contract term as 17 years (204 months). If the initial ACC funding term in HUDCAPS exceeds 180 months, then the contract authority on the Annual Budget Authority Tables (ABAT) and funding exhibits will not be correct. The correct ACC funding term should be entered whenever possible through a Contract Dates and Term Change (CDTC) and Contract Dates and Term Approval (CDTA).

In some cases the ACC funding term cannot be changed in HUDCAPS to 180 months. The ACC funding term converted from CFS to HUDCAPS of 204 months redistributed Annual Budget Authority (ABA) over a 17 year period, making ABA available for disbursement in years 16 and 17. The subsequent approval of budgets and requisitions by Field Offices without first correcting funding terms in HUDCAPS, authorized disbursements from the erroneous ABA in years 16 and 17 rather than from program reserves as appropriate.

Where the correct ACC funding term cannot be entered into HUDCAPS because disbursements have been processed in years subsequent to the correct term (180 months), the ACC funding term in HUDCAPS must be changed to coincide with the disbursement period. This action will prevent additional disbursements from erroneous ABA. The funding

exhibit will require a manual change to reflect the correct contract authority. (Attachment 1).

4. **FY 97 APPROPRIATIONS ACT REQUIREMENTS** - The FY 97 Appropriations Act has provided requirements for expiring HAP contracts for the period of October 1, 1996 through September 30, 1997. Expiring HAP contracts in properties with less than 5 units will be replaced with tenant based assistance during FY 97.

Owners of multi-family properties (5 or more units) which have HAP contracts expiring during FY 97 have the option to request a renewal of the HAP contract. The renewal term is for 12 months.

Notice 96-95, Fiscal Year 1997 Renewal of Expiring Section 8 Mod Rehab HAP Contracts states that:

"HAs should require owners to request a renewal at least 75 days prior to the termination of the HAP contract."

If the owner of a multi-family project does not request a renewal of the HAP contract within the time frame referenced above, replacement **tenant based** assistance will be provided for the units expiring under the HAP contract.

If the owner requests a renewal the HA will prepare a new HAP contract for one year. Gross rents to the owner for the renewal period will be the lesser of contract rent at the time of expiration of the HAP contract or 120% of current FMRs for the area.

Renewal funds will be provided on an as needed basis to fund HAP contract renewals. If program reserves are available to cover the cost of the 12 month renewal, no renewal funds will be provided.

The same methodology used to determine renewals and/or extensions for the certificate and voucher program will be used for Mod Rehab program renewals. A determination will be made as to whether or not the renewal requires renewal funds or can be funded with existing program reserves. A LOTUS worksheet (Attachment 2) is included for use in the Mod Rehab program to facilitate an accurate determination of renewal requirements. Field Offices will be required to modify the FMR data field to reflect rent limits defined in the legislation.

HUDCAPS

If a HAP contract has been renewed based on the FY 97 legislation **and** additional funds are provided to renew the units, the renewal will be processed in HUDCAPS as a modification to the reservation document. A new line to

the initial increment will be created. The ACC funding and contract term of the renewal will be for 12 months.

The HUDCAPS procedures used for data entry of cost amendments for funding increment-based programs will be followed with the exception that the reservation modification and other appropriate entries will be considered a **renewal** rather than a cost amendment. The fund and program information required for data entry must correspond to the data identified on the HUD 185. The renewal funds for the Mod Rehab program will have a unique program code in HUDCAPS.

If the HAP contract is renewed based on the FY 97 legislation using program reserves, and the existing ACC contract term expiration date does not cover the extended term of the renewal, a Contract Date and Term Change (CDTC) change is required in HUDCAPS. This change will extend the ACC contract expiration date to coincide with the HAP contract renewal expiration date. The contract term change requires approval through the Contract Dates and Term Approval (CDTA) Table. Specific instructions can be found in the HUDCAPS Usersguide.

If reserves are used to fund the renewal and the renewal term is within the ACC contract expiration date presently in HUDCAPS, no further action is required to modify the dates.

Staff are required to enter the cumulative amount of restricted reserves used to fund the renewal in the applicable year. This information is posted on the Year End Settlement Table (YEST) and must be entered prior to settlement approval.

The HAP Contract Table (HAPC) must be updated to include the HAP number, effective date, expiration date, and total units of the renewal. The HAP Unit Distribution Table (HAPU) will be updated to include the bedroom size, HAP program type, and number of units for the new line created by the renewal. If a new line was not created because renewal funds were not provided, the HAPU will be updated only if there has been a change to the original data.

Under no circumstances can rental assistance be provided by the HA if the HAP contract term has expired and the renewal not executed. Field Offices are cautioned to coordinate with HAs to ensure that renewal contracts are executed expeditiously and timely. Retroactive rental assistance payments may be provided to owners when the renewal HAP contract has been executed.

Mod Rehab rental assistance cannot be provided after HAP contract expiration if the owner chooses not to renew the HAP contract or if the contract expiration is for a unit in a project of 4 or fewer units. As stated previously,

tenant based assistance will be provided to eligible families in these circumstances.

5. **PAYMENT OF VACANCY LOSS CLAIMS**

A separate notice will be issued addressing the processing and payment of vacancy loss claims. Questions should be referred to the Office of Rental Assistance, Operations Division.

6. **REPORTING REQUIREMENTS**

Due to the variables associated with the provisions of the FY 97 Appropriations Act, Field Offices will be required to provide periodic reports to Headquarters indicating the category and amount of funds required. The categories for reporting are:

- Number of units and cost of tenant based assistance replacements required for expiring HAP contracts.
- Number of units and cost of expiring HAP contracts requiring renewal funds (to be extended as Mod Rehab).
- Number of units and cost of expiring HAP contracts funded using program reserves (to be extended as Mod Rehab).

A sample spreadsheet and instructions (Attachment 2 and 3) for Field Office use are included to report replacement/renewal requirements to Headquarters. A separate report is required for replacement tenant based assistance and for contract renewals.

A suggested reporting format and instructions are also included for use by HAS (Attachment 4). The use of this format by HAS for submission to the Field Office will ensure that program requirements have been met prior to issuing replacement tenant based assistance or renewal Mod Rehab funding.

LOTUS files will be transmitted under separate cover.

The first report covering expirations during the period of October 1, 1996 through June 30, 1997 is due to Headquarters no later than **April 30, 1997**. Thereafter, the reporting requirements are as follows:

<u>Contract Expiration Month</u>	<u>Report Due to HQ</u>
July, 1997	May 31, 1997
August, 1997	June 30, 1997
September, 1997	July 31, 1997

This schedule of reporting follows the guidelines for notifications identified in Notice 96-95. Renewal funds and/or replacement tenant based assistance will not be provided until the reports are received in Headquarters.

Negative reports are required from Field Offices.

7. **REPLACEMENT WITH TENANT BASED ASSISTANCE** - Rental Certificates will no longer be issued on an annual basis for **all** expiring contracts during the calendar cycle. If the expiring HAP contract does not meet the requirements for extending Mod Rehab HAP contracts, replacement certificates will be provided.

An eligibility determination of the affected tenant must be made by the HA. The tenant must meet the requirement of the certificate program (lower income limit, i.e., 80% of median income) to receive tenant based assistance.

If the existing tenant is not income eligible, the HA can use the tenant based assistance to serve other eligible families identified for the program on the HA waiting list.

A tenant eligible for tenant based assistance has the option of finding a replacement unit or renting in place if the former Mod Rehab unit meets Housing Quality Standards (HQS), if rent is within the FMR and meets the rent reasonableness test, and the owner is willing to participate in a tenant based program.

In the event that provision of funds for tenant based assistance should be delayed, the HA should continue assistance to eligible families from existing resources by issuing certificates from its ongoing certificate program, even if the HA finds itself briefly in an overleased situation. The HA may also use excess administrative fees available to fund replacement tenant based assistance until reimbursement is received.

8. **NOTIFICATION TO HOUSING AUTHORITIES** - When replacement tenant based assistance or renewal funds for the Mod Rehab program are received, the Field Office should reserve the funds in HUDCAPS and prepare a Notification Letter(s) to the HA. Separate letters should be prepared for replacement tenant based assistance and for renewal funds.

The letter(s) will inform the HA that expiring HAP contracts have either been replaced with tenant based assistance or renewed for the Mod Rehab Program. Also included in the letter(s) should be the expiring project number, new increment number (tenant based assistance only), the number of tenant based assistance units funded and/or renewed Mod Rehab units, funding term, and budget

authority. If funds are provided for more than one year the amount of contract authority should be noted.

The appropriate entries should be made in HUDCAPS to generate a funding exhibit for the tenant based assistance program and/or the Mod Rehab program, as applicable. Please refer to the HUDCAPS Usersguide for specific data entry requirements. The ACC and new funding exhibit should be submitted to the HA for signature.

If the expired Mod Rehab HAP contract has been replaced with tenant based assistance, it is not necessary to submit a revised ACC for the Mod Rehab program to the HA. HUDCAPS will automatically delete the number of units under ACC on subsequent funding exhibits. The HA should be reminded that subsequent Mod Rehab budgets should reflect the actual number of units remaining under HAP contract which have not yet expired.

To maintain Mod Rehab program history the HAPC table should not be altered to reduce the number of expiring units replaced with tenant based assistance. When applicable, the HAPC table should be updated to include the related funding increment.

9. **COST AMENDMENTS**

Cost amendments are required when the Mod Rehab increment does not have sufficient funds available in budget authority and ACC project reserves to cover the ongoing costs of program operations. The determination of the need for a cost amendment should be identified through the budget approval process or when requested annually by Headquarters.

The need for a cost amendment should be requested prior to the project completely depleting all funds. It is the responsibility of the HUD Field Office to ensure that there are adequate funds available for timely processing of HA financial documents.

Cost amendments are treated as a separate line to the original increment in HUDCAPS with a unique ACC funding and contract term. The term of the cost amendment is based on the number of years for which funding is provided. In the case of cost amendments the ACC funding and contract terms should be the same.

The funding exhibit should reflect the total budget authority available for the increment which includes the original budget authority plus any cost amendments. The contract authority found on the exhibit may require a manual adjustment to accurately reflect the amount available, as previously discussed, due to disbursement activity beyond the funding term.

HUD staff should be cautious in the later years of the Mod Rehab ACC contract to ensure that the calculation of cost amendment needs reflect projected costs after accounting for HAP contracts expiring during the year for which cost amendments are requested.

If a multiple year cost amendment is received in the later years it might be necessary to transfer annual budget authority between years in HUDCAPS rather than have the annual budget authority distributed for an equal amount each year. This would take into consideration upcoming expirations of HAP contracts and the decrease in funds required as HAP contracts expire.

10. **RESIDUAL FUNDING -**

RESERVED

11. **FINAL CLOSEOUT**

Once the extended ACC has expired and all undisbursed program reserves expended, Section 8 tenant based renewal funding will be provided as appropriate. The term of the renewal funding will be established by Headquarters at that time.

Funds remaining in the Administrative Fee Reserve (formerly known as operating reserve) upon closeout of the program will be retained by the HA. The reserves may be used for other housing related purposes. Appropriate accounting entries should be made to identify the final disposition of the reserves.

12. **FURTHER INFORMATION**

Any questions regarding this notice should be addressed to the Finance Division, Office of Rental Assistance, at (202) 708-2934.

____/s/_____
Kevin Emanuel Marchman,
Acting Assistant Secretary
for Public and Indian Housing

Attachments (Not included in the file.)

